

LUD 5538.1 CIP (09807339)

Notwithstanding these assertions by the Examiner, after 7 months, the Examiner sent an incomplete Office Action, in which all the claims were NOT allowed. The Examiner did NOT explain the reversal of position, nor the unreasonable delay. Further, when a call was placed regarding the incomplete Office Action - which the Examiner did not return - a fax followed with the missing papers, without a resetting of the time period, which Applicants representative clearly requested.

An explanation for these procedural violations is required.

Turning to the action, the Examiner rejected claims 112-125, 127, 128, 145, 146, 147, 150 and 151.

Claims 125 and 127 have been cancelled and will not be discussed further.

With respect to the rejection of claims 112-117 and 124, the Examiner indicated that adding "isolated" would overcome the rejection. This has been done.

With respect to claims 118-123, the cancellation of claim 125 eliminates the issue of non-proliferative cells. The Examiner suggests that the transfection can be used to maintain cells in culture. So be it. Clearly there is an enabling use for these claims. The rejection should be withdrawn. Further, with respect to a claim like claim 145, clearly these materials could be used as immunogens to produce antibodies, for example. The Examiner, who reads other claims broadly, reads these claims too narrowly.

So, too, for claims 128. If the claims like claim 118 could be maintained in culture, a kit like that defined by claim 128 has a defined use.

Rejection 5 is moot in view of the cancellation of the claims.

Rejection 6 is moot in view of the inclusion of isolated in the claims.

The interpretation given to claims 150 and 151 is totally incorrect. The Examiner appears to interpret the claims as embracing the entire amino acid sequence disclosed - which it does not - or portions, but not all of it. This interpretation strains credulity.

Claims 150 and 151 have been amended to claim vectors encoding a peptide. The vectors do not encode more than one peptide, they encode one peptide. See original claim 80. "At least one" includes one, or a peptide.

Ross teaches no such subject matter. The rejection should be withdrawn.


All issues have been addressed. Allowance is called for.

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Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0624, under Order No. LUD 5538.1 A(09807339) from which the undersigned is authorized to draw.

Respectfully submitted,

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